

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 07-00654-2 CRB

Plaintiff,

**ORDER DENYING BAIL PENDING
APPEAL**

v.

LINDA N. ASHIEGBU,

Defendant.

Now pending before the Court is Defendant's motion for bail pending appeal. Under 18 U.S.C. § 3143(b), "the judicial officer shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal . . . be detained, unless the judicial officer finds" (1) "by clear and convincing evidence that the person is not likely to flee" (2) "or pose a danger to the safety of any other person or the community if released" and (3) "that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in" reversal, a new trial, a sentence of no imprisonment, or a reduced sentence to a term of imprisonment less than the time expected for the duration of the appeal.

While the Court finds that Defendant does not present a risk of flight or a danger, the Court also finds that Defendant's appeal fails to raise a substantial question likely to result in reversal, a new trial, or a reduced sentence. The Court's admission of the A File and of evidence of spousal preferences, as well as the government's reference in closing arguments

1 to the poverty guidelines, did not constitute error, and in any case did not affect the verdict.
2 The Court also rejects Defendant's claim that there was a constructive amendment of the
3 indictment. Accordingly, the Court DENIES Defendant's motion for bail pending appeal.

4 **IT IS SO ORDERED.**

5
6
7 Dated: September 14, 2009



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE